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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,270	01/10/2002	Mark Serpa	60036-0011	7845
29989	7590	01/15/2004	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			CHIN, RANDALL E	
1600 WILLOW STREET			ART UNIT	
SAN JOSE, CA 95125			PAPER NUMBER	
			1744	

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/044,270	Applicant(s) SERPA, MARK 	
	Examiner Randall Chin	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_      6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Buchmann-Ribary '013.

Buchmann-Ribary '013 teaches a tool for scraping or cleaning comprising a body, a tip a which can serve as an extraction tip extending outwardly from the body wherein the tip a is dimensioned to fit within an intake cavity (merely relative), and has edges formed in the tip and capable of catching matter in the intake cavity. The body (handle) is in the form of a pin vise at d, f in Figs. 1 and 2.

As for the tool being used to clean a watercraft speedometer, it has been held that with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations and merely involves intended use. The recitation that the tip has a length approximately equal to that of the intake cavity also involves intended use and also would be merely relative depending on the size of a cavity to be cleaned.

3. Claims 1-4, 9, 11, 12, 14 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Brookhart '635.

Brookhart '635 teaches a tool for scraping or cleaning a tube comprising a body or manual grasping means (Fig. 2), a tip which can serve as an extraction tip extending outwardly from the body wherein the tip is dimensioned to fit within an intake cavity (merely relative), and has edges formed in the tip and capable of catching matter in the intake cavity as well as barbs rearwardly extending that can withdraw matter from a tube. The tip is deemed to be a "drill" or "drill bit" fixed in the body. Typically, it is noted that a "drill" usually is associated with some type of rotating means for the "drill." Clearly, the claims do not require any such structure.

As for the tool being used to clean a watercraft speedometer, it has been held that with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations and merely involves intended use. The recitation that the tip has a length approximately equal to that of the intake cavity also involves intended use and also would be merely relative depending on the size of a cavity to be cleaned.

4. Claims 1-6, 11-14 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauer '888.

Sauer '888 teaches a tool for scraping or cleaning a tube comprising a body or manual grasping means 21, a tip 60 (Fig. 5) which can serve as an extraction tip extending outwardly from the body wherein the tip is dimensioned to fit within an intake cavity (merely relative) and has edges formed in the tip and capable of catching matter in the intake cavity, and a securable and removable closure or cap 34 for covering the

"drill" (Figs. 2 and 4). The tip is deemed to be a "drill" or "drill bit" fixed in the body. Typically, it is noted that a "drill" usually is associated with some type of rotating means for the "drill." Clearly, the claims do not require any such structure.

As for the tool being used to clean a watercraft speedometer, it has been held that with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations and merely involves intended use. The recitation that the tip has a length approximately equal to that of the intake cavity also involves intended use and also would be merely relative depending on the size of a cavity to be cleaned.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 8, 15, 16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer '888 in view of Borst '240.

Sauer '888 teaches all of the recited subject matter as set forth above with the exception of the closure having a plurality of female threads that mate with corresponding male threads formed on the body and the body having a hole for accepting a flotation device. Borst '240 discloses a closure 10 having a plurality of

female threads that mate with corresponding male threads 17 formed on the body and a hole 19. It would have been obvious to one of ordinary skill in the art to have provided Sauer's closure with a plurality of female threads that mate with corresponding male threads formed on the body for the purpose of providing a secure attachment of the closure to body and to avoid loss of the closure and to have a hole on the body for accepting a floatation device as suggested by Borst.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer '888 in view of Borst '240 as applied to claim 22 above, and further in view of Field '593.

Field '593 teaches a hole 13 in a closure. It would have been obvious to one of ordinary skill to have provided the modified Sauer device with a hole in the closure as suggested by Field for accepting some type of floatation device.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer '888 in view of Borst '240 and Field '593.

Sauer '888 teaches all of the recited subject matter as set forth above with the exception of the closure having a plurality of female threads that mate with corresponding male threads formed on the body and the body having a hole for accepting a flotation device.

Borst '240 discloses a closure 10 having a plurality of female threads that mate with corresponding male threads 17 formed on the body and a hole 19.

Field '593 teaches a hole 13 in a closure.

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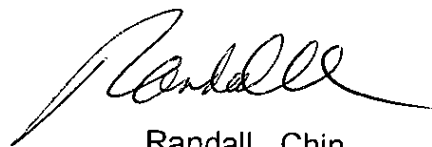
It would have been obvious to one of ordinary skill in the art to have provided Sauer's closure with a plurality of female threads that mate with corresponding male threads formed on the body for the purpose of providing a secure attachment of the closure to body and to avoid loss of the closure as suggested by Borst and to have further provided a hole on the body for accepting a floatation device as suggested by Field.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



R. Chin



Randall Chin  
Primary Examiner  
Art Unit 1744